

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KASSEM MOHAMMAD SALAMEY,

Petitioner,

Case No. 09-CV-12201

v.

HONORABLE DENISE PAGE HOOD

MARY BERGHUIS,

Respondent.

**ORDER GRANTING PETITIONER'S REQUEST TO PROCEED
IN FORMA PAUPERIS ON APPEAL AND DENYING PETITIONER'S
REQUEST FOR APPOINTMENT OF COUNSEL ON APPEAL**

Petitioner Kassem Mohammad Salamey has appealed the Court's dismissal of his habeas corpus petition. Before the Court is Petitioner's combined motion for appointment of appellate counsel and to proceed *in forma pauperis* on appeal.

Although Petitioner retained counsel for the District Court proceedings, he alleges that his family has exhausted its resources and cannot afford to retain counsel for his appeal. He also alleges that he has no assets and is unable to pay the appellate filing fee.

Petitioner may proceed *in forma pauperis* on appeal because an appeal could be taken in good faith. 28 U.S.C. § 1915(a)(3). The request for appointment of counsel, however, is denied because the filing of a notice of appeal generally "confers jurisdiction on the court of appeals and divests the district court of control over those aspects of the case involved in the appeal." *Marrese v. American Academy of Orthopaedic Surgeons*, 470 U.S. 373, 379 (1985) (citing *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982) (*per curiam*)). Petitioner has already filed a notice of appeal. Consequently, the Court lacks jurisdiction to address his request for

appointment of counsel. *Murray v. Artl*, 189 F. App'x 501, 504 (7th Cir. 2006).

Accordingly,

Petitioner's motion to proceed *in forma pauperis* on appeal and for the appointment of counsel (**Doc. No. 21, filed September 9, 2011**) is granted in part and denied in part. The request to proceed *in forma pauperis* on appeal is granted, but the request for appointment of counsel is denied.

s/Denise Page Hood
United States District Judge

Dated: September 30, 2011

I hereby certify that a copy of the foregoing document was served upon counsel of record on September 30, 2011, by electronic and/or ordinary mail.

s/LaShawn R. Saulsberry
Case Manager